

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

BLUESTONE COAL CORPORATION,

Plaintiff,

v.

CIVIL ACTION NO. 1:07-00549

CNX LAND RESOURCES, INC.,
and CONSOL ENERGY, INC.,

Defendants.

MEMORANDUM OPINION AND ORDER

On June 22, 2009, the court held a status conference in this matter. For reasons appearing to the court and as discussed more fully at the hearing, the court hereby ORDERS as follows:

1. Defendants informed the court that their motion to compel the deposition testimony of Tom D. Lusk and Stephen W. Ball (doc. # 92) was withdrawn. Accordingly, the Clerk is directed to terminate the motion.
2. Defendants informed the court that their motion for leave to take immediate discovery of certain records held by Comcast (doc. # 130) was withdrawn. The Clerk is directed to terminate the motion.
3. Based upon the representation of plaintiff's counsel regarding efforts made to locate materials responsive to the subpoena and written representations to that effect being a part of the

record, the court VACATES the referral to Magistrate Judge VanDervort of plaintiff's motion to quash subpoena duces tecum (doc. # 132). The motion is DENIED without prejudice.

4. Based upon the court's denial of plaintiff's motion to quash, the court VACATES the referral to Magistrate Judge VanDervort of defendants' motion to file a supplemental memorandum in opposition to plaintiff's motion to quash subpoena duces tecum (doc. # 179). The motion is DENIED without prejudice.
5. Based upon the representation of counsel, the court VACATES the referral to Magistrate Judge VanDervort of defendants' motion to exclude certain deposition testimony (doc. # 160) and the motion is DENIED as moot.*
6. The court VACATES the referral to Magistrate Judge VanDervort of defendants' amended motion to exclude certain deposition testimony (doc. # 168).
7. Based upon the representation of counsel at the hearing, defendants' motion to extend the time for expert witness disclosures (doc. # 180) was

* At the status conference, counsel for defendants informed the court that this motion was replaced by the Amended Motion to Exclude Certain Deposition Testimony (doc. # 168).

withdrawn. The Clerk is directed to terminate the motion.

8. Plaintiff's motion to exceed page limit (doc. # 137) is GRANTED.

9. Plaintiff's motion for leave to file surreply (doc. # 145) is GRANTED.

10. Defendants' motion to file supplemental memorandum in support of motion to continue (doc. # 194) is GRANTED.

11. Defendants' motion to file another supplemental memorandum in support of their motion to continue (doc. # 224) is GRANTED.

12. The Clerk is directed to REINSTATE defendants' motion for summary judgment (doc. # 61) and all responses and replies thereto to the active docket of the court.

The Clerk is directed to send copies of this Memorandum Opinion and Order to all counsel of record and to Magistrate Judge VanDervort.

IT IS SO ORDERED this 23rd day of June, 2009.

ENTER:

A handwritten signature in cursive script, reading "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge